

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 2288 of 2006

SURESH CHOPRA

V/S

A.D.J. (FAST TRACK), NO.3, BIKANER & ORS.

DR. SACHIN ACHARYA, for the appellant / petitioner

Mr. D.D. CHITLANGI, for the respondent

Date of Order : 10.9.2007

HON'BLE SHRI N P GUPTA, J.

ORDER

Heard learned counsel for the parties.

It is contended by learned counsel for the petitioner that irrespective of the question, as to whether the pleadings taken in paras 24, 25 and 26, which have been struck off, can be treated as counter-claim or not, they are very much the pleadings of the petitioner-defendant in any case to oppose the suit of the plaintiff, and they could not have been ordered to be struck off.

Learned counsel for the respondent submits that on the face of the enactment of the new Rent Control Act, 2001, the claim of eviction could be entertained only by the Rent Control Tribunal, and not by the Civil Court, as such, the plaintiff had no right to file counter-claim before the learned trial Court. However, if the pleadings taken in paras 24, 25 and 26 are allowed to remain on the record only as a defence to the plaint, and not as a counter-claim, then of course he has no objection.

In that view of the matter, the writ petition is

disposed of making it clear that the pleadings in paras 24, 25, and 26 shall continue to remain on the written-statement only as a defence to the plaintiff's claim, and not as a counter-claim. Obviously, therefore, even in the event of defendant proving the averments taken in these paras, the defendant would not be entitled for decree from the learned trial Court. The record of the learned trial Court be returned forthwith, and the learned trial Court is directed to proceed with the suit expeditiously.

(N P GUPTA), J.

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